

December 3, 2020

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By ECF & Regular Mail

Attention Lisette Rodriguez, Courtroom Deputy (Newark) Chambers of Hon. Brian R. Martinotti, U.S.D.J. Clarkson S. Fisher Building & U.S. Courthouse 402 East State Street Room 2020 Trenton, NJ 08608

Re: GEA Mechanical Equipment US, Inc.

Civil Action No.: 2-20-cv-09741-BRM-ESK

Dear Ms. Rodriguez:

I write with respect to the Notice of Call for Dismissal Pursuant to Fed. R. Civ. Pro. 4(m) filed by the Clerk on December 1, 2020, which I understand was only applicable to defendants, Federal Insurance Company and Travelers Casualty and Surety Company.

Further to our conversation this morning, I write to confirm that Defendants Federal Insurance Company and Travelers Casualty and Surety Company were dismissed without prejudice from the state court matter captioned *GEA Mechanical Equipment US, Inc. v. Federal Insurance Company, et al,* Superior Court of New Jersey, Law Division, Bergen County, Docket No. BER-L-005721-19, prior to removal to this Court. Attached are the relevant orders of dismissal.

In light of the foregoing, I understand that the Notice of Call will be dismissed. If my undestanding is incorrect, please so advise me as soon as possible.

Please let me know if you need anything else in this regard.

Respectfully,

Robert F. Pawlowski

Attachments

CC: All Counsel of Record (by email)

Robert A. Pawbash.

K&L GATES LLP Donald W. Kiel (NJ Bar No. 014371982) Donald.Kiel@klgates.com One Newark Center, Tenth Floor Newark, New Jersey 07102-5252 973-848-4000 FILED
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Robert C. Wilson
J.S.C.

K&L Gates Center 210 Sixth Avenue Pittsburgh, Pennsylvania 15222-2613 412-355-6500

Attorneys for Plaintiff GEA Mechanical Equipment US, Inc.

GEA MECHANICAL EQUIPMENT US, INC.,

Plaintiff,

٧.

FEDERAL INSURANCE COMPANY, et al.;

Defendants.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BERGEN COUNTY DOCKET NO.: BER-L-005721-19

CIVIL ACTION

ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO FEDERAL INSURANCE COMPANY ONLY

THIS MATTER having been opened to the Court by K&L Gates LLP, attorneys for plaintiff, GEA Mechanical Equipment US, Inc. ("GEA"), and Cohn Baughman & Serlin, attorneys for defendant, Federal Insurance Company ("Federal"), and it appearing that GEA and Federal have agreed to GEA's dismissal of the Second Amended Complaint against Federal without prejudice, conditioned on the Court's entry of this Order preserving all claims by GEA against Federal; and good cause having been shown;

IT IS on this 20 day of June, 2020, ORDERED as follows:

1. Subject to the provisions of this Order, GEA's Second Amended Complaint, as against Federal only, be and the same is hereby dismissed without prejudice and without costs against either party;

- 2. Any claims asserted or which could have been asserted by GEA in its Second Amended Complaint, as against Federal, are hereby preserved, and GEA shall not be barred or otherwise precluded or limited in any way from asserting such claims by the entire controversy doctrine or any other similar doctrine of claim preclusion.
- 3. Any defenses asserted or which could have been asserted by Federal in response to GEA's Second Amended Complaint, except for defenses based on the entire controversy doctrine or any similar doctrine of claim preclusion, are hereby preserved, and Federal shall not be barred or otherwise precluded or limited in any way from asserting such defenses by the entire controversy doctrine or any other similar doctrine of claim preclusion.
- 4. A copy of this Order shall be served on all counsel of record within five days of entry.

Hon. Robert C. Wilson, J.S.C.

____ Opposed
Unopposed

Consented to as form and substance.

K&L GATES LLP Attorneys for Plaintiff GEA Mechanical Equipment US, Inc. COHN BAUGHMAN & SERLIN Attorneys for Defendant Federal Insurance Company

By:

Donald W. Kiel

Dated: June 30, 2020

By:

s|Lawrence A. Nathanson

Lawrence Nathanson

Dated: June 29, 2020

K&L GATES LLP Donald W. Kiel (NJ Bar No. 014371982) Donald.Kiel@klgates.com One Newark Center, Tenth Floor Newark, New Jersey 07102-5252 973-848-4000

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JUL 22 2020
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Attorneys for Plaintiff GEA Mechanical Equipment US, Inc.

GEA MECHANICAL EQUIPMENT US, INC.,

Plaintiff,

٧.

FEDERAL INSURANCE COMPANY, et al.;

Defendants.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BERGEN COUNTY DOCKET NO.: BER-L-005721-19

CIVIL ACTION

ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO TRAVELERS CASUALTY AND SURETY COMPANY ONLY

THIS MATTER having been opened to the Court by K&L Gates LLP, attorneys for plaintiff, GEA Mechanical Equipment US, Inc. ("GEA"), and Clyde & Co US LLP, attorneys for defendant, Travelers Casualty and Surety Company (f/k/a Aetna Casualty and Surety Company) ("Travelers"), and it appearing that GEA and Travelers have agreed to GEA's dismissal of the Second Amended Complaint against Travelers without prejudice, conditioned on the Court's entry of this Order preserving all claims by GEA against Travelers; and good cause having been shown;

IT IS on this 22 day of July, 2020, ORDERED as follows:

- Subject to the provisions of this Order, GEA's Second Amended Complaint, as
 against Travelers only, be and the same is hereby dismissed without prejudice and without costs
 against either party;
- 2. Any claims asserted or which could have been asserted by GEA in its Second Amended Complaint, as against Travelers, are hereby preserved, and GEA shall not be barred or otherwise precluded or limited in any way from asserting such claims by the entire controversy doctrine or any other similar doctrine of claim preclusion.
- 3. Any defenses asserted or which could have been asserted by Travelers in its

 Answer to the Second Amended Complaint, as against GEA, except for defenses based on the
 entire controversy doctrine or any similar doctrine of claim preclusion, are hereby preserved, and
 Travelers shall not be barred or otherwise precluded or limited in any way from asserting such
 defenses by the entire controversy doctrine or any other similar doctrine of claim preclusion.
- 4. A copy of this Order shall be served on all counsel of record within five days of entry.

Dated: July 14, 2020

Dated: July 21, 2020